

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

MICHAEL AMARAL)	
)	
Plaintiff)	
)	
v.)	Civil Action No.
)	04-11778-GAO
)	
PENN MARITIME, INC.)	
)	
Defendant)	
_____)	

ANSWER OF DEFENDANT PENN MARITIME, INC.

Defendant Penn Maritime, Inc., by its attorneys, as and for its Answer to the Complaint, states upon information and belief:

1. Paragraph 1 of the Complaint consists of statements of law to which no response is required and to the extent a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the matter asserted.

2. Paragraph 2 of the Complaint consists of statements of law to which no response is required and to the extent a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the matter asserted.

3. Defendant is without knowledge or information sufficient to form a belief as to the truth of the matters asserted in paragraph 3 of the Complaint, and, therefore, denies the same.

4. Defendant is without knowledge or information sufficient to form a belief as to the truth of the matters asserted in paragraph 4 of the Complaint, and, therefore, denies the same.

5. Defendant is without knowledge or information sufficient to form a belief as to the truth of the matters asserted in paragraph 5 of the Complaint, and, therefore, denies the same.

6. Defendant is without knowledge or information sufficient to form a belief as to the truth of the matters asserted in paragraph 6 of the Complaint, and, therefore, denies the same.

7. Defendant is without knowledge or information sufficient to form a belief as to the truth of the matters asserted in paragraph 7 of the Complaint, and, therefore, denies the same.

8. Defendant denies the allegations set forth in paragraph 8 of the Complaint, and, therefore, denies the same.

9. Defendant is without knowledge or information sufficient to form a belief as to the truth of the matters asserted in paragraph 9 of the Complaint, and, therefore, denies the same.

10. Defendant admits the allegations of paragraph 10 of the Complaint.

11. Defendant is without knowledge or information sufficient to form a belief as to the truth of the matters asserted in paragraph 11 of the Complaint, and, therefore, denies the same.

12. Defendant is without knowledge or information sufficient to form a belief as to the truth of the matters asserted in paragraph 12 of the Complaint, and, therefore, denies the same.

13. Defendant is without knowledge or information sufficient to form a belief as to the truth of the matters asserted in paragraph 13, of the Complaint, and, therefore, denies the same.

14. Defendant is without knowledge or information sufficient to form a belief as to the truth of the matters asserted in paragraph 14, of the Complaint, and, therefore, denies the same.

15. Defendant is without knowledge or information sufficient to form a belief as to the truth of the matters asserted in paragraph 15, of the Complaint, and, therefore, denies the same.

16. Defendant is without knowledge or information sufficient to form a belief as to the truth of the matters asserted in paragraph 16, of the Complaint, and, therefore, denies the same.

17. Defendant is without knowledge or information sufficient to form a belief as to the truth of the matters asserted in paragraph 17, of the Complaint, and, therefore, denies the same.

18. Defendant is without knowledge or information sufficient to form a belief as to the truth of the matters asserted in paragraph 18 of the Complaint, and, therefore, denies the same.

19. With respect to paragraph 19 of the Complaint, Defendant repeats, re-alleges and re-asserts each and every admission, denial and denial of knowledge and information set forth above as though fully restated here.

20. Defendant is without knowledge or information sufficient to form a belief as to the truth of the matters asserted in paragraph 20 of the Complaint, and, therefore, denies the same.

21. Defendant admits the allegations of paragraph 21 of the Complaint.

22. Defendant denies the allegations set forth in paragraph 22 of the Complaint.

23. Defendant denies the allegations set forth in paragraph 23 of the Complaint.

24. Defendant denies the allegations set forth in paragraph 24 of the Complaint.

25. Defendant denies the allegations set forth in paragraph 25 of the Complaint.

26. With respect to paragraph 26 of the Complaint, Defendant repeats, re-alleges and re-asserts each and every admission, denial and denial of knowledge and information set forth above as though fully restated here.

27. Defendant denies the allegations set forth in paragraph 27 of the Complaint.

28. Defendant denies the allegations set forth in paragraph 28 of the Complaint.

29. Defendant denies the allegations set forth in paragraph 29 of the Complaint.

30. Defendant denies the allegations set forth in paragraph 30 of the Complaint.

31. Defendant denies the allegations set forth in paragraph 31 of the Complaint.

32. With respect to paragraph 32 of the Complaint, Defendant repeats, re-alleges and re-asserts each and every admission, denial and denial of knowledge and information set forth above as though fully restated here.

33. Defendant admits the allegations of paragraph 33 of the Complaint.

34. Defendant denies the allegations set forth in paragraph 34 of the Complaint.

35. Defendant denies the allegations set forth in paragraph 35 of the Complaint.

36. Defendant denies the allegations set forth in paragraph 36 of the Complaint.

37. Defendant denies the allegations set forth in paragraph 37 of the Complaint.

38. Defendant denies the allegations set forth in paragraph 38 of the Complaint.

AS AND FOR A FIRST DEFENSE

In the event plaintiff suffered injuries as pleaded in the complaint, such were as a result of his fault, negligence, carelessness and failure to exercise due care under the circumstances and plaintiff is accordingly barred from recovery, or, alternatively, his recovery must be reduced by his proportionate share of fault.

AS AND FOR A SECOND DEFENSE

Plaintiff's claims are barred by the primary duty doctrine.

AS AND FOR A THIRD DEFENSE

Plaintiff failed to mitigate his alleged damages.

AS AND FOR A FOURTH DEFENSE

Pursuant to 46 App. U.S.C. § 183, damages of Defendant are limited to the value of the vessels upon which the alleged accidents pleaded in the complaint took place, said alleged accidents having occurred without privity or knowledge of said Defendant.

WHEREFORE, Defendant seek entry of an order granting dismissal of the Complaint, together with costs, disbursements and attorneys' fees and any other or further relief as the Court may deem to be just and proper.

Respectfully submitted

PENN MARITIME, INC.

By its attorney,

Dated: September 30, 2004

/s/Timothy R. McHugh
Timothy R. McHugh

B.B.O. No. 335480
P.O. Box 211
Southborough MA 01772
(617) 593-5405

Certificate of Service

I hereby certify that I
served a copy of the
within Answer on all
counsel of record by
mail and electronically
this 30th day of
September 2004.

/s/Timothy R. McHugh